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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 KURT BENSHOOF and BRIANA
9 GAGE,

10 Plaintiffs,

11 v.

12 MOSHE ADMON, DANIEL
13 AUDERER, JUSTIN BOOKER, FREYA
14 BRIER, CITY OF SEATTLE, NATHAN
15 CLIBER, ZACHARY COOK,
16 BENJAMIN COOMER, ANITA
17 CRAWFORD-WILLIS, JENNY
18 DURKAN, AMY FRANKLIN-BIHARY,
19 WILLIE GREGORY, OWEN
20 HERMSEN, DAVID KEENAN,
21 GABRIEL LADD, MAGALIE
22 LERMAN, MARY LYNCH, KATRINA
23 OUTLAND, JESSICA OWEN, BLAIR
 RUSS, SPROUTS FARMERS
 MARKET, KING COUNTY, SEATTLE
 PUBLIC SCHOOLS, BIG 5 SPORTING
 GOODS, CENTRAL COOP, PUGET
 CONSUMERS CO-OP, FAYE CHESS,
 ANN DAVIDSON, ADAM
 EISENBERG, MATTHEW LENTZ,
 JEROME ROACHE, SOHEILA
 SARRAFAN, DAVID SULLIVAN, and
 JORDAN WALLACE,

CASE NO. 2:23-cv-1392

ORDER REVOKING IFP STATUS
FOR APPEAL

1 Defendants.

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3 1. INTRODUCTION

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5 This matter comes before the Court on referral from the United States Court
6 of Appeals for the Ninth Circuit (the “Referral”). Dkt. No. 114. Having reviewed the
7 relevant record, the Court REVOKEs Kurt Benshoof’s in forma pauperis status for
8 his appeal, No. 24-952.

9

10 2. BACKGROUND

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12 After filing three unsuccessful motions for a temporary restraining order,
13 Benshoof moved a fourth time asking the Court to (1) enjoin the City of Seattle from
14 “acting to detain, arrest, imprison, prosecute, or sentence [him] relating to Seattle
15 Municipal Court Nos. 656748 [and] 65674”; and (2) enjoin Puget Consumers Co-Op
16 (PCC) from continuing to deny him access to its grocery stores. Dkt. No. 92 at 2.
17 This Court denied Benshoof’s first request as duplicative of his earlier motions
18 requesting injunctive relief and denied his second request because he failed to show
irreparable harm or a likelihood of success on the merits. Dkt. No. 92 at 4, 7. The
Court also warned Benshoof that it would sanction him for violating Federal Rule of
Civil Procedure 11(b)(2) if he continued to file frivolous motions.

19 On February 20, 2024, Benshoof filed a notice of interlocutory appeal
20 regarding the Court’s order denying his fourth motion for a temporary restraining
21 order. Dkt. No. 93. The Ninth Circuit referred this matter to this Court “for the
22 limited purpose of determining whether in forma pauperis status should continue

1 for this appeal or whether the appeal is frivolous or taken in bad faith." Dkt. No.
2 114 at 1. The Court addresses this question below.

3 **3. ANALYSIS**

4 Benshoof's IFP status should be revoked in this matter. A good faith appeal
5 must seek review of at least one "non-frivolous" issue or claim. *See Hooker v. Am.*
6 *Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). A frivolous claim is one that "lacks an
7 arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325
8 (1989). Benshoof's TRO motion lacks an arguable basis in law.

9 In its order, this Court explained that the *Younger* abstention doctrine bars
10 the relief Benshoof seeks, a doctrine the Court already discussed in the prior denial
11 orders. *See* Dkt. Nos. 29 at 8-9; 38 at 15. Further, Benshoof failed to show any
12 irreparable harm would result absent the requested TRO. Dkt. No. 92 at 6-7.
13 Irreparable harm is a necessary component before the Court will impose such an
14 extraordinary remedy. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).
15 Benshoof has not and cannot establish irreparable harm on the facts and claims
16 alleged. Because Benshoof's motion for a TRO does not include a single non-
17 frivolous claim, the Court concludes his appeal is not in good faith and that his IFP
18 status to appeal must be revoked.

19 **4. CONCLUSION**

20 Accordingly, it is hereby ORDERED:

- 21 • The Court CERTIFIES that Benshoof's appeal is frivolous and not
22 taken in good faith. Benshoof's in forma pauperis status is revoked.

- The Clerk of the Court SHALL provide a copy of this Order to all Parties and the Ninth Circuit.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing pro se at said party's last known address.

Dated this 18th day of March, 2024.



Jamal N. Whitehead
United States District Judge